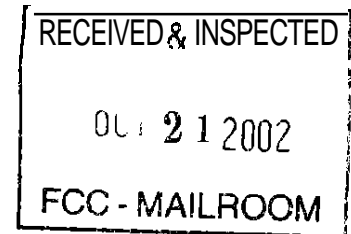


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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments.
FM Broadcast Stations.
(Chillicothe, Dublin, Hillsboro and
Marion, Ohio

)
)
)
)
)
)
)

MB Docket No. 02-266
RM-10557

TO: Chief, Audio Division

COMMENTS OF THE COMMITTEE FOR COMPETITIVE COLUMBUS RADIO

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SUMMARY

In this proceeding, the Citicasters Companies, subsidiaries of Clear Channel, seek to downgrade one of their stations in Marion, Ohio, and move it to Dublin, Ohio, a community located within and heavily dependent on the Columbus Urbanized Area. To accommodate the move, they also seek to reallocate another one of their commonly owned stations from Hillsboro, Ohio, Chillicothe, Ohio.

The Dublin move-in violates a settlement agreement reached in 1998 between Jacor Communications, Inc., a predecessor to Clear Channel, and the Department of Justice. It strips the City of Marion, Ohio, of one of its only two FM broadcast stations - the only one with sufficient power and height to adequately cover the surrounding rural area. It leaves the sizeable community of Hillsboro, Ohio, with only one station, a daytime, in order to provide an 8th service to the relatively small, over-radioed city of Chillicothe, Ohio.

For all of these reasons, the rule changes do not create a preferential arrangement of allotments. Therefore, the proposed changes should not be adopted.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MB Docket No. 02-266
Table of Allotments,)	RM-10557
FM Broadcast Stations.)	
(Chillicothe, Dublin, Hillsboro and)	
Marion, Ohio)	
)	
TO: Chief, Audio Division		

COMMENTS OF THE COMMITTEE FOR COMPETITIVE COLUMBUS RADIO

The Committee for Competitive Columbus Radio (the “Committee”),¹ by its attorney, hereby respectfully submits the following Comments in opposition to the rule changes proposed in this proceeding:

I. Preliminary Statement:

1. In this proceeding, Citicasters Licenses, Inc., and Citicasters Company (“Petitioners”) propose to remove Station WMRN-FM from its current community of license,

¹The Committee includes the following Columbus area broadcasters: North American Broadcasting Co., Inc., licensee of WBZX(FM) and WMNI(AM), Columbus, Ohio, and WEGE(FM), Westerville, Ohio; WCLT Radio, Inc., licensee of Stations WCLT AM/FM, Newark, Ohio; Associated Radio, Inc., licensee of WSMZ-FM, Johnstown, Ohio, and WODB-FM, Delaware, Ohio; and Franklin Communications, Inc., licensee of WVKO(AM) and WSNY(FM), Columbus, Ohio.

Marion, Ohio (2000 population - 35,318) and relicense the station to Dublin, Ohio (2000 population - 31,392), downgrading WMRN-FM's channel from Channel 295B to Channel 294B1. To accomplish this move, Petitioners propose to change the operating frequency of a commonly-owned station, WSRW-FM, Hillsboro, Ohio, downgrade the station from Channel 294B to Channel 293A and change the location of the station from Hillsboro, Ohio (2000 population - 6368) to Chillicothe, Ohio (2000 population - 21,796). On information and belief, both Petitioners are wholly-owned subsidiaries (or subsidiaries of subsidiaries) of Clear Channel, the largest radio broadcaster in the U.S.

2. Petitioners argue that the adoption of their proposal will result in a preferential arrangement of allotments consistent with the Revision of FM Assignment Policies and Procedures². However, as will be shown herein, the proposed allotments will do no such thing. They contemplate the removal of service from an independent community, i.e., Marion, which is presently underserved, to Dublin, a community which is simply part of the Columbus Urbanized Area, already well-served by the Columbus stations. They contemplate downgrades for both Stations WMRN-FM and WSRW-FM, which will result in loss of service to the public. They contemplate the loss of the only FM station in Marion with sufficient height and power to adequately serve the surrounding rural areas. Finally, by virtue of Clear Channel's ownership of the affected stations, and the relocation of Station WMRN-FM to the Columbus Urbanized Area, where Clear Channel already has other stations and has the highest revenue share of any player, they threaten to create an undue

²Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982). The allotment priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service and (4) other public interest matters [co-equal weight is given to priorities (2) and (3)].

concentration of broadcast revenues in the 35th market in the U.S.

II. Competitive Considerations:

A. Clear Channel's Entry Into the Columbus Market

3. Clear Channel made its first entry into the Columbus market in 1999, when it acquired all of the stock ownership of Jacor Communications, Inc. Shareholders of Jacor Communications, Inc., 14FCC Rcd 6867 (1999). In 1998, Jacor Communications, Inc., which had stations in Columbus, acquired the radio stations owned by Nationwide Communications, Inc. At the time, the Department of Justice issued a Press Release, a copy of which is attached and marked Exhibit **A**. There, the Department of Justice announced that it had reached a settlement with Jacor, allowing the company to go forward with its acquisition of Nationwide Communications, Inc., but only on the condition that Jacor would sell off eight radio stations - two in San Diego, one in Cleveland and five in Columbus, Ohio. The Press Release reads in pertinent **part** as follows:

“If the deal were approved as originally proposed, Jacor would have had control of 12 stations in San Diego, accounting for **42** percent of the radio advertising revenue. In Cleveland, Jacor would have owned six radio stations with **43** percent of the radio advertising revenue. In Columbus, with nine radio stations, Jacor would have had 58 percent of the radio advertising revenue. The Department's Antitrust Division and the Ohio Attorney General's office conducted a joint investigation into Jacor's acquisition of Nationwide.

‘The divestitures will preserve the choices available to advertisers in the San Diego, Cleveland, and Columbus markets’, said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division.

Jacor is addressing the Department's competitive concerns by selling or swapping radio stations with several different companies. Jacor is using a fix-it-first remedy, which means they will complete the sales before acquiring Nationwide.

The two San Diego stations, KKLQ-FM and KJQY-FM, will be sold to Dallas-based Heftel Broadcasting Corporation. Jacor will swap WKNR-AM in Cleveland for WTAE-AM in Pittsburgh, currently owned by Austin, Texas-based Capstar Broadcasting Partners. In Columbus, Jacor will sell WZAZ-FM to Cincinnati-based Blue Chip Broadcasting. Jacor has also agreed to sell their right to acquire WKKJ-FM of Chillicothe, Ohio, to Cincinnati-based Secret Communications LLC.

Jacor will also swap three Columbus stations and two stations in Minneapolis-St. Paul with New York-based CBS Radio Station Group. In return, Jacor will receive two Baltimore stations, two St. Louis stations, and two San Jose, California stations from CBS. Jacor's swap with CBS will give CBS WHOK-FM, WLVQ-FM, and WAZU-FM in Columbus and WMJZ-FM and KSGS-AM in Minneapolis-St. Paul. Jacor will receive WOCT-FM and WCAO-AM in Baltimore, KSD-FM and KLOU-FM in St. Louis, and KOME-FM and KUFX-FM in San Jose.

According to industry estimates, the divestitures will reduce Jacor's revenue share to approximately 39 percent in Cleveland, 36 percent in San Diego, and 38 percent in Columbus."

4. The stations owned by Jacor in the Columbus market were, however, shortly incremented by the addition of one more station. In 1998, the FCC issued a Notice of Proposed Rule Making, initiated by a Jacor subsidiary, Citicasters Co., looking towards the reallocation of its station in Marysville, Ohio, WFJX, to Hilliard, Ohio, a community located within the Columbus Urbanized Area. Marysville and Hilliard, Ohio, 13 FCC Rcd 13300 (All. Br. 1998). That allotment was opposed by some of the existing stations in the Columbus market, but the Allocations Branch approved it anyway, pointing out that Jacor had disclosed the Hilliard reallocation to the DOJ at the time of the 1998 settlement, and that the Hilliard station would, allegedly, serve only 39.4% of the Columbus Urbanized Area. Marysville and Hilliard, Ohio, 14 FCC Rcd 18943 (All. Br. 1999) at paragraphs 8 and 11.

5. The Allocations Branch was deceived, however, when it concluded that the Hilliard station would serve only 39.4% of the Urbanized Area. Citicasters took advantage of a loophole in the Commission's allocations policies - a loophole which allows a petition for rule making to specify one set of geographic coordinates for purposes of the rule making, but change to a completely different location when the application is later filed to implement the allocation.

6. Attached hereto and marked Exhibit B is an engineering report, containing a map prepared by the Committee's engineer, William G. Brown. On that map, the 70 dbu city grade coverage contour of the Hilliard station, as it operates today, has been overlaid on the Columbus Urbanized Area. As shown, the station's transmitter site has been moved to a location in downtown Columbus, from which it serves approximately 90% of the Urbanized Area.

B. Standards of Competition

7. Obviously, when Clear Channel bought Jacor, it took that company and its subsidiaries subject to the 1998 settlement agreement between Jacor and the DOJ. The settlement was entered into in accordance with the DOJ's responsibilities to enforce antitrust laws. In an article in the Fordham Intellectual Property, Media and Entertainment Law Journal, H. Peter Nesvold has discussed the applicability of the antitrust laws to mergers and acquisitions in *the* broadcast field.³ There are two laws which are applicable here: Section 7 of the Clayton Act, codified at 15 U.S.C. Section 18 (1994), and the Sherman Act, codified at 15 U.S.C. Sections 1-7 (1994). While these Acts speak of "mergers", the word is merely a generic label for all forms of union. Nesvold at page 800, and the cases cited therein. The antitrust statutes apply equally to "all legal forms by which an

'Communication Breakdown: Developing an Antitrust Model for Multimedia Mergers and Acquisitions, 6 Fordham Intell. Prop. Media & Ent. L.J., 781 (Spring 1996).

amalgamation of assets may be consummated.” Id. At fnnt. 110. Thus, the instant proceeding in which Clear Channel proposes to move one of its existing stations into the Columbus market falls within the purview of the statutes - it constitutes an amalgamation of assets which Clear Channel presently owns in Marion, Ohio. with those which it already owns in Columbus.

8. The first step in any antitrust analysis is defining the relevant market in which the merging forms operate. Nesvold at p. 805. This involves a determination of the combined entities’ “line of commerce” or product market and the “section of the country” or geographic market in which it operates. Nesvold at p. 805.

9. In this case, the “line of commerce” is radio broadcasting, and the geographic market is Columbus, Ohio. In cases arising under the Hart-Scott-Rodino Act,⁴ the DOJ has taken the position that the business of radio broadcasting is, indeed, a distinct “line of business” and that the acquisition of more than 40% of the broadcast revenues in a particular radio market constitutes, prima facie, a violation of the Sherman Act and the Clayton Act. See Competitive Impact Statement in United States of America and State of New York v. American Radio Systems Corporation, et al., U.S.D.C. (D.C.), Case No. Civ. 96-CV-2459 and, in particular, p. 12 (copy attached and marked Exhibit C). It is no coincidence, therefore, that under the 1998 settlement agreement, Clear Channel wound up with just under 40% of the broadcast revenues in the Columbus market.

10. In the intervening years, the FCC, itself, has become independently concerned with over concentration of broadcast revenues. It has initiated a rule making proceeding to deal with the issue and establish an interim policy against granting applications which result in one company owning stations which account for more than 50% of the radio broadcast revenues in a market, or

⁴15 U.S.C. Sections 15c, 15h, 18a and 66.

two companies, together, owning more than 70%.⁷ Acting pursuant to its interim policy, the FCC ordered hearings in at least six cases where Clear Channel or its subsidiaries have sought to purchase stations, effectively killing these transactions. See Air Virginia, Inc. (Charlottesville), 17 FCC Rcd 5423 (2002); Youngstown Radio License, L.L.C. (Youngstown, OH), 2002 WL 1467348; Mountain Wireless, Inc. (Skowhegan, ME), 2002 WL 1467351; Sheldon Broadcasting, Ltd. (Nolanville, TX), 2002 WL 1467353; Voice in the Wilderness Broadcasting, Inc. (Groves, TX), 2002 WL 2030954; Whitehall Enterprises, Inc. (Ann Arbor, MI), 2002 WL 31084937. Here, of course, Clear Channel is not attempting to purchase a station; it is trying to move one of its existing stations into the market. However, the same principles apply.

C. The Dublin Move-in Threatens to Create an Undue Concentration of Broadcast Revenues

11. Whenever Clear Channel enters a market, it seems, it becomes an octopus seeking to dominate that market. Attached hereto and marked Exhibit D is an article from the October 4, 2002. *Wall Street Journal* describing Clear Channel's use of loopholes to achieve a stranglehold on broadcast revenues in the San Diego market. The loophole used in San Diego relates to Mexican stations, which are not counted for purposes of the Commission's multiple ownership rules. In Columbus, as we have seen, Clear Channel used another loophole, proposing to move a station to Hilliard upon a representation that it would serve only 39.4% of the Urbanized Area, but winding up with over 90% coverage when it filed its application to implement the rule making.

12. Attached hereto and marked Exhibit E are the revenue figures for the Columbus

⁷Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets, Notice of Proposed Rule Making and Further Notice of Proposed Rule Making, 16 FCC Rcd 19861, 19894-97, paras. 84-89 (2001).

marked, compiled by BIA. They show that Clear Channel is already the 800 pound gorilla in the market. It has 36.6% of the radio broadcast revenues. No other player in the market has even half that amount.

13. The Dublin move-in is not, however, Clear Channel's only effort to add to its portfolio of stations in the market (in apparent violation of its agreement with the DOJ). In 1999, Secret Communications II, LLC, filed a petition for rule making, requesting the reallocation of Channel 227B from Chillicothe, Ohio, to Ashville, Ohio, a small community situated just a few miles south of the Columbus beltway. Thereafter, on September 18, 2001, Clear Channel Broadcasting Licenses, Inc., filed an application (File No. BALH-20010918AAP) for Commission consent to purchase Secret's Chillicothe station. Proceedings have been ongoing in Docket No. 99-322 pertaining to the proposed relocation of Station WKKJ from Chillicothe to Ashville. Suffice to say that, while the Notice of Proposed Rule Making in that docket indicates that the Ashville station will serve only 8.3% of the Columbus Urbanized Area⁶, experience has shown that there is little relationship between transmitter sites and urbanized coverage proposed in rule makings and the actual transmitter sites and urbanized coverage achieved by Clear Channel proposals. Marvsville and Hilliard, Ohio, Report and Order, 14FCC Rcd 18943 (All.Br. 1999), and engineering statement of William G. Brown (Exhibit B).

14. Thus, we see that Clear Channel has not one, but two, ongoing proceedings looking towards the acquisition of additional stations in the Columbus market. Commentators respectfully submit that the Commission cannot grant this rule making without taking into account

⁶Notice of Proposed Rule Making, Chillicothe and Ashville, Ohio, 14 FCC Rcd 18931 (All. Br. 1999).

the adverse economic impact which the Dublin acquisition will have on the competitive situation in the Columbus market. It may be true that, as the Commission observed, the DOJ was aware of the Marysville and Hilliard move-in at the time of the settlement agreement between Clear Channel and the DOJ. There is, however, no evidence that the DOJ was ever made aware of the Dublin move-in, nor was it made aware of the move-in from Chillicothe to Ashville. Apparently, however, a grant of either of these proposals would violate the settlement agreement entered into between Clear Channel and the DOJ in 1998. Therefore, for this reason alone, the reallocation contemplated by this rule making must be denied

III. Petitioners Have Not Demonstrated and Cannot Demonstrate that the Changes Proposed in this Rule Making Will Create a Preferential Arrangement of Allotments:

15. This proceeding had its genesis in a Petition for Rule Making, filed on behalf of the Citicasters companies on February 12, 2002. At page 3 of the Petition for Rule Making, the statement is made that “Dublin itself is located outside of any Urbanized Area”. That statement is simply false. Attached hereto and marked Exhibit F is a partial copy of the official U.S. Census Bureau map of the Columbus Urbanized Area. Areas which are shaded on the map are part of the Urbanized Area. There is a shaded area plainly marked “Dublin”.

16. Therefore, there is no question that, as Petitioners’ concede, the proposed relocation “implicates” the Commission’s policies concerning the potential migration of stations from underserved rural areas to well-served urban areas. See, Headland, Alabama and Chattahoochee, Florida, 10 FCC Rcd 10352 (1995). Thus, the Petitioners were required to demonstrate that Dublin is, in fact, independent of Columbus. Faye and Richard Tuck, 3 FCC Rcd

⁷Petitioners use the word “implicates”; a better word would be “violates”.

5374 (1988) at 5378.

17. At page 5 of the Petition, the Petitioners cite 1990 U.S. Census data, indicating that 24.3% of the working population of Dublin worked in Dublin. This is another way of saying that 75.7% worked someplace else in the Columbus Urbanized Area - something which might be expected where, as here, we are dealing with a bedroom community for a major adjacent entity. That entity, Columbus, is already served by 34 radio broadcast stations (see BIA/Arbitron figures, attached as Exhibit G), of which 18 are licensed to communities within the Urbanized Area (Engineering Statement of William G. Brown, Exhibit B). Those stations, of course, serve the needs of all of the communities, including Dublin, that are **part** of the Urbanized Area.

18. At page 5 of their Petition, Petitioners claim that Dublin has two local newspapers. However, a Yahoo yellow pages search under newspapers in Dublin, a copy of which is attached and marked Exhibit H, discloses only one newspaper - the Dublin News, a weekly which is published by the Suburban News Publication at 5257 Sinclair Road, Columbus, Ohio. In fact, the Dublin News appears to be just one of 15 or 16 weekly newspapers carrying news concerning different localities surrounding Columbus, all of which originate at the same printing plant on Sinclair Road in Columbus.

19. A Yahoo search under government/law and justice/legal services for Dublin yields similar results. The search, a copy of which is attached and marked Exhibit I, yields 20 different offices, **ranging from** the U.S. Attorney to the public defender, every one of which is located in the City of Columbus, Ohio, and none of which are located in Dublin. The same is true of veterans organizations. A Yahoo search under that category in Dublin, Ohio, returns **42 different** organizations, 33 of which are situated in Columbus and not a single one in Dublin (Exhibit J).

20. To accomplish the Dublin move-in, Clear Channel is proposing to downgrade not one, but two of its stations. WMRN-FM, presently licensed to Marion, Ohio, will be downgraded from a B to a B1 and moved to Columbus (Dublin), resulting in a reduction in area served from 5391 sq. km. to 4742 sq. km. WSRW-FM will be downgraded from a B to an A, resulting in a reduction in area served from 5170 sq. km. to 2597 sq. km. Engineering Statement of William G. Brown, attached and marked Exhibit B.

21. Clear Channel's decision to move Station WMRN-FM to Columbus is a classic case of callous corporate indifference to the needs and interests of the community it is supposed to serve. Established in 1953, WMRN-FM is by far the oldest of the two commercial FM stations in Marion. It has become a community institution, serving the city continuously for nearly 50 years. As an important agricultural center, Marion has a need for a station with sufficient power and height to serve the surrounding rural areas. As a Class B facility, WMRN-FM serves that need. The remaining commercial FM station in Marion, WDIF, is a 3 kW Class A facility which cannot begin to do the job. Neither can WMRN(AM), a 1kW facility broadcasting on a local channel (1490 kHz), restricted to a range of a few miles from its transmitter site by heavy nighttime interference. A depiction of the relative coverage of the present WMRN-FM interference protected 54 dbu contour is set forth in Mr. Brown's engineering report and compared with the Class A service from WDIF and the nighttime interference-free service from WMRN(AM). As can be seen, WMRN-FM serves approximately five times the area of WDIF and dwarfs the area served at night by WMRN(AM). Thus, Clear channel would have the FCC strip Marion of the only station which it has, which has the coverage needed to adequately serve the surrounding agricultural populations

22. Presently, all of the three commercial radio stations in Marion are owned by Clear

Channel; hence, Clear Channel is free to **fix** prices in the market with impunity. That means that Clear Channel can move one of the stations to the Columbus market without losing any revenues - its remaining two stations will simply acquire the revenues which were previously generated by the station that is moved out, either by adding to their commercial load and/or jacking up prices.

23. As the County Seat of Marion County (2000 population - 66,217 persons), Marion, with a population of 35,318, is a distinctly under-radioed community. Moreover, unlike Dublin, which is simply a part of the Columbus Urbanized Area, Marion is not dependent upon any other nearby city for local services. Contrast a Yahoo search under “hospitals” in Marion with a similar search in Dublin. While, as shown in Exhibit K, the Dublin search discloses a number of specialty clinics, there is no general hospital. On the other hand, as shown in Exhibit L, a search in Marion discloses a general hospital: Marion General, obviously dedicated to the needs of Marion residents.

24. Earlier, we saw that a search under Dublin discloses no daily or weekly newspaper published there. By way of contrast, a search in Yahoo under Marion, confirmed by a search in *Gale's Directory of Publications and Broadcast Media, 135th Edition*, shows that Marion has a daily and Sunday paper, the Marion Star, specifically dedicated to its needs. The same is true of veteran's organizations: none are shown in Dublin; three are shown in Marion (see Exhibit M). As in the case of Dublin, a search under legal services in Marion (Exhibit N) shows none in Marion, itself; there is, however, an important difference - the Marion search describes none in any nearby Urbanized **Area** because, unlike Dublin, Marion is not in close proximity to or **dependent upon any** Urbanized Area.

25. The proponents of the rule making will, of course, point to the gains in

population achieved by moving WMRN-FM from Marion to Dublin. These gains, however, are achieved by leaving Marion with only two commercial radio stations and no competitive stations in order to provide a service to Dublin, a community which, as a part of the Columbus Urbanized Area, already is well-served by the Columbus stations. It makes no sense.

26. The proposal to downgrade Station WSRW-FM, Hillsboro, from a B to an A and move it to Chillicothe, is also contrary to the notion of a preferential arrangement of allotments. For starters, Chillicothe already has four commercial radio stations and three non-commercial educational FM stations, for a total of seven stations in a town of only 21,796 people - it scarcely needs an eighth. Additionally, the move deprives Hillsboro, a town of 6368 people, of its only fulltime local station. It will be left with a 500 watt daytime **AM** station. WSRW(AM) (operating on 1590 kHz with 25 watts at night), as its only local service.

27. As shown in Mr. Brown's engineering report (Exhibit B), there are currently 18 broadcast stations licensed to the Columbus Urbanized Area. The Petitioners, themselves, concede that from their reference coordinates (which may later be changed to move even closer to Columbus), 71% of the Urbanized Area will receive a city grade, 70 dbu signal from the Dublin station. Therefore, as a practical matter, the proposal to move WSRW-FM from Hillsboro to Chillicothe (so as to accommodate the move of WMRN-FM to Dublin) is really a choice between the loss of Hillsboro's only FM radio service and a 19th service to be added to the Columbus Urbanized Area. As to the proposal to move WMRN-FM to Dublin, it must be viewed as a choice to deprive Marion, a community of 35,318 persons, of its only Class B FM station, to establish this 19th service to Columbus. So viewed, the Petitioners' proposal is very similar to the case of Fairfield and Nonwood, Ohio, 7 FCC Rcd 2377 (1992). There, the Commission refused to make the

reallotment of Channel 235B from Fairfield, Ohio, to Norwood, Ohio, because it found that Norwood was completely surrounded by Cincinnati, Ohio, which at the time had 17 local services, and that Norwood was not entitled to a first local service preference. Norwood, like Dublin, was an incorporated city. Norwood had a 1990 population of 23,674, but was dwarfed by Cincinnati with a 1990 population of 364,040 - approximately 15 times larger. Norwood, like Dublin, was located within the Urbanized Area in question. Dublin, with a 2000 population of 31,392, must be compared to the Columbus Urbanized Area which had a 1990 population of approximately 945,327 persons (2000 figures not yet available). Even if Dublin were compared only to Columbus, which had a 2000 population of 711,450, there would still be a vast difference in population, since Columbus is over 22 times larger in population than Dublin.

28. In the case of Norwood, Ohio, the Commission refused to make the reallotment because it would be removing a second local transmission service from Fairfield in order to provide and 18th such service to the Cincinnati Urbanized Area. Here, the Commission would be removing a second transmission service (and the only FM radio station) from Hillsboro, Ohio, to add a 19th service to the Columbus Urbanized Area. The station left behind in Hillsboro, WSRW(AM), is a 500 watt daytime on 1590kHz (25 watts night) that can hardly be considered adequate to serve the 6368 residents of Hillsboro should Class B Station WMRN-FM move to Columbus. For this reason, standing alone, Petitioners' proposal must be denied.

IV. Conclusion:

29. Clear Channel's proposed Dublin move-in poses an effort to do indirectly what Clear Channel cannot do directly, i.e., violate Jacor's 1998 settlement agreement with the Justice Department. It is, moreover, not an isolated instance. In yet another proceeding in Docket No. 99-

322, Clear Channel is seeking to move still another one of its stations to Ashville, Ohio, where it, too, will add to Clear Channel's portfolio in the Columbus market - a market in which it already has by far the largest share of the broadcast revenues. For these reasons, standing alone, the proposal should be denied.

30. Furthermore, and wholly aside from the foregoing, the proposal should be denied because it will not bring about a preferential arrangement of allotments. It downgrades not one, but two stations, substantially reducing the areas which they will serve. It strips Marion, Ohio, an independent and thriving community of 35,318 persons, of one of its only three broadcast stations, in order to establish a new station in Dublin, Ohio. As shown, however, Dublin is not independent; it is simply a highly dependent part of the Columbus Urbanized Area, an area already well-served by the 34 commercial stations already licensed to Columbus or other communities within or near the Columbus Urbanized Area. Thus, the proposed allotments make no sense, whatsoever, in terms of the objectives of Section 307(b) of the Communications Act, which require a "fair, efficient and equitable distribution of radio service".

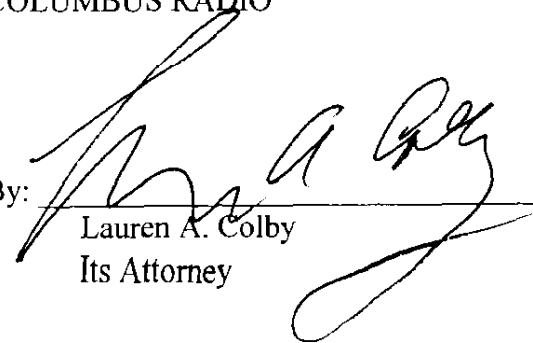
Respectfully submitted,

THE COMMITTEE FOR COMPETITIVE
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October 18, 2002

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